

Notice of Allowability

Application No.

09/445,614

Applicant(s)

BONNERT, TIMOTHY PETER

Examiner

Art Unit

Michael Brannock

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's response of 7/20/2006.
2. ☒ The allowed claim(s) is/are 1-3 and 7-9.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JANET L. ANDRES
SUPERVISORY PATENT EXAMINER

Art Unit: 1649

Examiner's Comment

The polypeptide of the instant SEQ ID NO: 2 is 100% identical to the polypeptide disclosed by US Patent Publication 20050158827 (of record) as SEQ ID NO: 5, which is encoded by a polynucleotide (SEQ ID NO: 4) that has an identical coding region with the instant SEQ ID NO: 1 and what appear to be minor differences in the 5'-noncoding regions. The polypeptide of SEQ ID NO: 5 and the encoding polynucleotide of SEQ ID NO: 4 of US Patent Publication 2005/0158827 appear to be supported by prior application **09/258633** filed 2/26/1999, and by prior application **60/114078** (Fig. 2B) filed 12/28/1998, but not by prior application **60/108322** filed 11/13/1998 wherein a polypeptide is disclosed that appears to be identical to part of the instant SEQ ID NO: 2 and is missing 185 N-terminal amino acids relative to the instant SEQ ID NO: 2. This polypeptide is disclosed as SEQ ID NO: 4 in Figure 2B of the **60/108322** application. The instant application is ready for allowance, see MPEP 2304[R-4], Practice 2.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D., can be reached at (571) 272-0867. Official papers filed by fax should be directed to **571-273-8300**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB



October 12, 2006